

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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J&J SPORTS PRODUCTIONS, INC.,

Plaintiff,

-against-

REPORT & RECOMMENDATION

06-CV-0344 (ARR) (RER)

BRIAN JOSE, et al.,

Defendants.

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**RAMON E. REYES, JR., U.S.M.J.:**

It appears that defendants Prospero Villalona and Restaurant Salvadoreno Usuluteco filed an answer with the pro se clerk's office on or about May 26, 2006. While said answer was technically late, such lateness should be relieved given the defendants' pro se status at the time. Further, since that time defendants have retained counsel. Thus, it is respectfully recommended that the Clerk's Certificate of Default be ordered withdrawn as improvidently entered, and that plaintiff's motion for a default judgment be denied. If the District Court orders as such, the undersigned will hold an initial conference as soon as one can be arranged with counsel.

Any objections to the recommendations made in this Report must be filed with the Clerk of the Court and the Chambers of the Honorable Allyne R. Ross within ten days of receiving this Report and Recommendation and, in any event, on or before October 4, 2006. Failure to file timely objections may waive the right to appeal the District Court's Order. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 6(a), 6(e), 72; *Small v. Secretary of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989). Plaintiff is hereby directed to serve copies of this Report and Recommendation upon defendants at their last known address, and to file proof of service with the Clerk of the Court.

Dated: August 28, 2006  
Brooklyn, New York

/s/  
Ramon E. Reyes, Jr.  
United States Magistrate Judge